

REMARKS

Claims 1-77 are pending in the application. Claims 1, 8, 20 and 48 are currently amended. Claim 77 is a new claim.

Claim 1 has been amended to recite that the voter authentication code may be executed to authenticate a voter without server interaction to authenticate the voter while the ballot display code is present, for example as recited on page 15 at lines 19-21, and the carryover paragraph bridging pages 13-14 of the Specification. Claim 20 has been amended to recite similar features in context of the method. Claim 48 has been amended to recite similar features in context of the means. Claim 8 has been amended to insert the word "is." Claim 77 is a new claim addressing additional features of postal server messaging, for example, as recited on page 41 at lines 6-11 of the Specification. The use of batch processing and self-sustaining authentication advantageously prevent the server from bogging down under conditions of heavy loading that would accompany any large election, for example, where existing Internet capacity is in use.

Claims 1-76 are provisionally rejected under 35 U.S.C §101 for statutory double patenting over copending application serial number 09/753,769. It is true that the claims of the respective applications are much the same. It is likely that Applicant will abandon one application in favor of the other, but no decision has been made at the present time.

Claims 1-75 are rejected under 35 U.S.C. §103(a) over US 6,081,793 to Challener, US 6,250,548B1 to McClure et al., and in further view of the Symantec AntiVirus Research Center publication which is applied selectively to claims 18, 19, 46, 47, 74 and 75. Challener is said to disclose all aspects of claim 1, except that the display code is used to display the official ballot image to the voter. McClure is used to show that a display code may display an official ballot image. No reason is given why there is a suggestion or motivation to combine these references other than a statement that "it would be obvious" to do so; however, the Office does observe that the Challener '793 system does have a ballot dispensing system (col. 3 at lines 25-26). Thus, McClure 548 is merely used to show one type of code that does this in context of an official ballot image.

Challener '793 requires the use of three separate authentication servers, each having a public key and a private key for encryption/de-encryption purposes (col. 3, lines 37-43). It will be appreciated that while Challener '793 has authentication at many levels, there is no provision made for self-sustaining authentication of the voter while the ballot display code is present. For example, the passage in column 8 at lines 4-20 of Challener '793 describes a process where, following authentication, the ballot is encrypted and transmitted to the voter's computer. There is no further authentication until the completed ballot arrives back at the journal server. Following authentication, the server merely dispenses the ballot (col. 3 lines 25-28).

Amended claims 1, 20, and 48 presently distinguish the applied references by performing authentication at a different level, namely, a self-sustaining authentication is performed at the voter's personal computer. This does not require server interaction to authenticate the voter once the ballot executable is present on the voter's personal computer. This type of authentication does not prohibit additional authentications, such as the voter providing a password that enables the server to download the ballot object that contains the ballot executable. Nothing in any of the applied references teaches or suggests the claimed self-sustaining authentication that is presently claimed.

Applicant respectfully traverses the conclusory statement that it would be obvious to combine Challener '793 with McClure '548. Neither patent publication describes authentication of the voter while the ballot display logic is present on the voter's computer. Neither patent publication teaches or suggests that this might be done.

Based upon the foregoing discussion, claims 1, 20 and 48 are allowable. Their dependant claims are likewise allowable, and also have patentable merit of their own.

The Office comments on claim 4 to say that McClure '548 ad Challener '793 may be combined because McClure '548 shows it is well known to use biometrics for authentication. McClure does show the use of biometrics in context of authenticating Internet voting, but this authentication is done before the ballot data is transmitted (col. 36 lines 23-58).

In context of claim 6, the Office relies upon Challener '793 col. 3, 65-67 and col. 4, lines 1-10. We respectfully observe that the passages relied upon refer to public and private key

encryption. This is not hashing as recited in the claim. Hashing is the breakup of storage locations to position them in different locations, i.e., the information is cut apart and stored separately in different locations. A hash table is typically present to connect the discrete pieces by associating a storage position with a hash value. Public-private key encryption as discussed in the passages relied upon usually refers to the creation of cipher-text, which is distinct from hashing. Therefore, Challenger '793 does not teach the limitation as alleged, and we respectfully traverse the rejection of claim 6.

In context of claim 7, the Office observes that Challenger '793 col. 7 line 38 to col. 8 line 20 shows the presentation of all choices that the voter would receive in an absentee election. The passage relied upon says no such thing. There is no mention of ballot choices at all, not is there mention of absentee voting. Therefore, Challenger '793 does not teach the limitation as alleged, and we respectfully traverse the rejection of claim 7.

It is incorrect to say that Challenger '793 col. 10, line 65 to col. 11 line 5 teaches the use of video memory in context of claim 9. This is a virus protection measure described, for example, in the carryover paragraph bridging pages 6 and 7 of the Specification. Driver pixel-image bits are checked to ascertain that the voter's selection as marked on the screen by virtue of this memory match the indicia of voting in the cast vote record. This is done to prevent a virus from presenting a masquerade such that it appears on the CRT that a vote is being cast in a different way than the vote is actually cast. Challenger '793 is silent on the issue. Therefore, Challenger '793 does not teach the limitation as alleged, and we respectfully traverse the rejection of claim 9.

As to claim 13, the Office relies upon Challenger '793 col. 5, lines 5-67 to show that the computer readable form is downloaded from a server. The passage actually relied upon shows controller access to voting information and executables across a distributed processing environment. It is not the case that a computer readable form is downloaded to any one computer. Therefore, Challenger '793 does not teach the limitation as alleged, and we respectfully traverse the rejection of claim 13.

We respectfully disagree with the Office assessment that Challenger '793 transmits an object that contains all of the data the voter will need to create a cast voter record. Only after interactive authentication by the server does Challenger '793 teach that the ballot can be dispensed (col. 3, lines 9-28). Therefore, Challenger '793 does not teach the limitation as alleged, and we respectfully traverse the rejection of claim 17.

The Office assesses claims 18 and 19 by asserting that Applicant has not disclosed including code for a virus mitigation measure solves any particular problem in a new or unexpected way. That is not the issue. The issue is whether the art teaches or suggests that viruses may be problem in the art of remote voting. The applied art is not even cognizant of this problem and, consequently, is silent as to the possibility of viruses corrupting the voting problem. Therefore, applicant has overcome a problem that was heretofore not ascertainable from the applied art. We respectfully traverse the rejection of claims 18 and 19.

The Office assesses claims 21 and 49 by asserting that no stated problem is solved in a new or unexpected way by downloading the ballot object as an email attachment; however, the use of email is one aspect, for example, of using an official electronic communications service, such as POSTeCS. See page 37 at lines 6-11 for a discussion of the significant legal protections that this invokes. Where prior systems cannot avail of these protections, such as the mail fraud laws, Applicants have provided a new scope and layer of protection-enforcement. Therefore, Challenger '793 does not teach the limitation as alleged, and we respectfully traverse the rejection of claims 21 and 49.

The Office assesses claims 24 and 53 by asserting that it would be a matter of design choice to charge a transactional fee and that Applicant has disclosed no new problem is solved by charging such fees. We respectfully disagree. Page 40 at lines 14-16, for example, describes a service fee that may be charged to fund an election headquarters engaged in these activities. Thus, the problem is solved of how to fund the voting. The applied art does not touch upon this subject and so we respectfully traverse the rejection.

The Office assesses claims 25 and 53 by asserting that no stated problem is solved in a new or unexpected way by using an official service of the United States Postal Service. We

respectfully traverse. See page 37 at lines 6-11 for a discussion of the significant legal protections that this invokes. Where prior systems cannot avail of these protections, such as the mail fraud laws, Applicants have provided a new scope and layer of protection-enforcement.

As to claims 30 and 58, we reassert that hashing is not the key encryption scheme described in Challenger '793. The applied references do not teach or suggest the claimed use of hashing.

As to claims 34, 35, 62 and 63, the passage in Challenger '793 at lines 25-35 does not mention the use of email.

The Office assesses claims 38 and 65 by asserting that no stated problem is solved in a new or unexpected way by using an official service of the United States Postal Service. We respectfully traverse. See page 37 at lines 6-11 for a discussion of the significant legal protections that this invokes. Where prior systems cannot avail of these protections, such as the mail fraud laws, Applicants have provided a new scope and layer of protection-enforcement.

Claim 76 is rejected under 35 U.S.C §102(b) over US 5,764,221 issued to Willard. Specifically, the passage relied upon from col. 8 at line 65 to col. 9 at line 15 pertains to the provision of radio frequency communications in a centralized local area voting system. Batch processing of data collection may be enabled. This is completely unrelated to the election server driving batch processing of a postal system server, for example, to deliver messages to voters indicating that they may now download their ballot, as is recited in new claim 77.



Patent

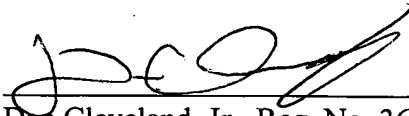
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Applicant solicits an Notice of Allowance for the reasons discussed above. the undersigned attorney requests a telephone conversation if such could expedite prosecution. If any fee has been inadvertently overlooked, please charge deposit account number 12-0600.

Respectfully submitted:

Date: 9/22/03


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